

Sixth Appellate District

San Jose, California

MONDAY, SEPTEMBER 17, 2007

H031255 In re LUCAS H.; SANTA CRUZ HRA v. ANNIE B.

The order is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed September 17, 2007

H031014 In re BRANDON C.; SANTA CRUZ COUNTY HRA v. SHERRI C.

The order is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed September 17, 2007

H030810 PEOPLE v. JACKSON, JR.

The abstract of judgment is ordered modified to state that defendant is entitled to 784 days actual days plus 392 conduct credits, for a total of 1,176 presentence custody credits. As so modified the judgment is affirmed. The clerk of the superior court is ordered to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed September 17, 2007

H030830 COX v. TOWLE

Respondent has requested that our opinion, filed on August 24, 2007, be certified for publication. It appears that our opinion meets the standards set forth in California Rules of Court, rule 8.1105(c). The request is GRANTED. The opinion is ordered published in the Official Reports. (Bamattre-Manoukian, Acting P.J.; Mihara, J., Duffy, J.)
Filed September 17, 2007

TUESDAY, SEPTEMBER 18, 2007

The Court met in Monterey City Hall, Monterey, California.
Present: Rushing, P.J.; Premo, J.; Elia, J.; and S. Nasson,
Deputy Clerk.

H029431 PEOPLE v. MARQUEZ

Cause called and argued by Danalynn Pritz appearing for Appellant and by John Vance, Deputy Attorney General appearing for Respondent. Cause ordered submitted.

H030647 GUZMAN, et al. v. COUNTY OF MONTEREY, et al.

Cause called and argued by Brian Burchett appearing for Appellants and by Patrick McGreal appearing for Respondents. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, September 18, 2007 (continued)

Rushing, P.J., Premo, J. and Elia, J. leave the bench. Bamattre-Manoukian, Acting P.J., McAdams, J. and Duffy, J. take the bench.

H030183 CHINN, et al. v. BOARD OF SUPERVISORS OF MONTEREY COUNTY; CATEY, et al.

Cause called and argued by David Sweigert appearing for Appellants and by Mary Perry appearing for Respondent and by Christine Kemp appearing for respondents. Cause ordered submitted.

H028021 VOICES OF THE WETLANDS v. CALIFORNIA STATE WATER RESOURCES CONTROL BOARD, et al.; DUKE ENERGY MOSS LANDING, et al.

Cause called and argued by Edward Dietrich, Certified Law Student, supervised by Deborah A. Sivas, appearing for Appellant Voices of the Wetlands and by Anita Ruud, Deputy Attorney General, appearing for Appellants California State Water Resources Control Board, et al., and by Sarah Flanagan appearing for Appellants Duke Energy. Cause ordered submitted. Court adjourns.

Sixth Appellate District

San Jose, California

Tuesday, September 18, 2007 (continued)

H030689 CITY OF SANTA CRUZ v. PATEL
H030690 CITY OF SANTA CRUZ v. PATEL
H030691 CITY OF SANTA CRUZ v. SHAIKH, et al.
H030692 CITY OF SANTA CRUZ v. PATEL
H030693 CITY OF SANTA CRUZ v. PATEL, et al.
H030694 CITY OF SANTA CRUZ v. PATEL, et al.
H030695 CITY OF SANTA CRUZ v. PANWALA, et al.
H030696 CITY OF SANTA CRUZ v. PATEL
H030697 CITY OF SANTA CRUZ v. SOOD

The order of the superior court in each of the nine cases considered herein is affirmed. Specifically:

The order of the superior court in case No. H030689, requiring appellant Praful C. Patel to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030690, requiring appellant Sanjay Patel to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030691, requiring appellants Roshan Shaikh and Munaf Shaikh to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030692, requiring appellant Kirti Patel to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030693, requiring appellants Kirit Patel and Daxa Patel to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030694, requiring appellants Kirit Patel and Rashmi Patel to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030695, requiring appellants San Panwala and Kusum Panwala to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

Sixth Appellate District

San Jose, California

Tuesday, September 18, 2007 (continued)

(continued disposition:)

H030689 CITY OF SANTA CRUZ v. PATEL

H030690 CITY OF SANTA CRUZ v. PATEL

H030691 CITY OF SANTA CRUZ v. SHAIKH, et al.

H030692 CITY OF SANTA CRUZ v. PATEL

H030693 CITY OF SANTA CRUZ v. PATEL, et al.

H030694 CITY OF SANTA CRUZ v. PATEL, et al.

H030695 CITY OF SANTA CRUZ v. PANWALA, et al.

H030696 CITY OF SANTA CRUZ v. PATEL

H030697 CITY OF SANTA CRUZ v. SOOD

The order of the superior court in case No. H030696, requiring appellant B.B. Patel to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance.

The order of the superior court in case No. H030697, requiring appellant Tejal Sood to comply with the April 13, 2006 subpoena and produce the records requested therein to respondent City of Santa Cruz, is affirmed. The cause is remanded to the superior court to set a date for compliance. (published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed September 18, 2007

H030202 McGUIRE, et al. v. COOLBRANDS SMOOTHIES FRANCHISE, LLC., et al.

By the Court:

The request for publication of the opinion filed in the above entitled action by Peter C. Lagarias on September 5, 2007, is denied. The opinion does not establish a new rule of law, nor does it meet any of the other criteria set forth in California Rules of Court, rule 8.1105(c)

In compliance with California Rules of Court, rule 8.1120(b), the Clerk shall transmit the request for publication and copy of this order to the Supreme Court. (Rushing, P.J.: We concur: Premo, J., Elia, J.)

Dated: September 18, 2007

H029702 PEOPLE v. BROWN

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed September 18, 2007

H030821 In re DAVID M.; PEOPLE v. DAVID M.,

The order of the juvenile court is affirmed;

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed September 18, 2007

Sixth Appellate District

San Jose, California

Tuesday, September 18, 2007 (continued)

H030843 In re SAMBLE on Habeas Corpus

The superior court's order granting Samble's petition for writ of habeas corpus is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed September 18, 2007

WEDNESDAY, SEPTEMBER 19, 2007

H030260 MCNAMEE v. STEWART, et al.

H030615 MCNAMEE v. STEWART, et al.

The judgment is affirmed. The order after judgment imposing monetary sanctions is reversed. Parties shall bear their own costs on appeal. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed September 19, 2007

H030939 PEOPLE v. SHIPLEY

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed September 19, 2007

H030677 PEOPLE v. HARRIS

(Filed order modifying opinion.) The modifications do not affect the judgment. (not published)

(Mihara, J.; Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed September 19, 2007

The following cases are submitted this date:

H030768 PEOPLE v. SOWELL

H030818 PEOPLE v. JONES

THURSDAY, SEPTEMBER 20, 2007

H030026 PEOPLE v. LACERDA

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed September 20, 2007

H030818 PEOPLE v. JONES

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed September 20, 2007

Sixth Appellate District

San Jose, California

Thursday, September 20, 2007 (continued)

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; McAdams, J.; and Jossie Michel, Deputy Clerk.

H030822 In re BETTENCOURT on Habeas Corpus

Cause called and argued by Heather Mackay, Deputy Attorney General, appearing for Respondent and by Denise Alayne Yates appearing for Petitioner. Cause ordered submitted.

H030887 In re Dabney on Habeas Corpus

Cause called and argued by Krista Pollard, Deputy Attorney General, appearing for Respondent and by Keith Allen Wattley appearing for Petitioner. Cause ordered submitted.

H030532 PEOPLE v. RETUTA

Cause called and argued by Keith A. Sugar appearing for Appellant and by Moe Jamil, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H030908 FANELLI as Trustee, etc. v. FANELLI

Cause called and argued by Russell J. Hanlon appearing for Respondent and by James P. Cilley appearing for Respondent. Cause ordered submitted.

McAdams, J. leaves the bench and Duffy, J. takes the bench.

H030757 SCHOENFELD v. CITY OF WALNUT CREEK

Cause called and argued by Ralph L. Jacobson appearing for Appellant and by Peter Pratt Edrington appearing for Respondent. Cause ordered submitted.

The court stands in recess.

The following cases are submitted this date:

H031332 PEOPLE v. ELERICK

H031043 PEOPLE v. BROWN

H030855 PEOPLE v. PAGE-SMITH

Sixth Appellate District

San Jose, California

Thursday, September 20, 2007 (continued)

H030338 PEOPLE v. CASTILLO

The judgment is reversed and the matter is remanded to permit defendant, through counsel, to make a motion to withdraw his plea. If defendant declines to move to withdraw his plea, or if the motion is denied, the defendant shall be resentenced in accordance with his plea. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed September 20, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: McAdams, J.; Bamattre-Manoukian, Acting P.J.; Duffy, J.; and LaNae Brooks, Deputy Clerk.

H030185 JORGE OLVERA, a Minor, etc., et al. v. PAJARO VALLEY UNIFIED SCHOOL DISTRICT, et al.

Cause called and argued by Timothy J. Walsh appearing for Appellants and by Mark A. Cameron appearing for Respondents.
Cause ordered submitted.

H031359 PEOPLE v. JOHN D.

Cause submitted without argument.

H030169 EAGLE BROADBAND v. THOMAS MOULD AND RICHARD WILLIAMS
H030719 EAGLE BROADBAND v. THOMAS MOULD

Cause called and argued by Jeffrey Michael Ratinoff appearing for Appellant Eagle Broadband and by Karineh Khachatourian appearing for Respondent and by Mark Goldowitz appearing for Appellant Richard Williams. Cause ordered submitted.

Court adjourns.

FRIDAY, SEPTEMBER 21, 2007

H029818 THOMPSON PACIFIC CONSTRUCTION, INC. v. CITY OF SUNNYVALE

The judgment is modified to strike the penalty of \$91,067.09 for violation of the Subletting and Subcontracting Fair Practices Act (4100 et seq.). As modified, the judgment is affirmed. The parties shall bear their own cost on appeal. (published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed September 21, 2007

Sixth Appellate District

San Jose, California

Friday, September 21, 2007 (continued)

The following cases are submitted this date:

H031292 PEOPLE v. JULIAN R.

H031144 PEOPLE v. NICHOLAS P.

H031767 THERESA A. v. SUPERIOR COURT

H031327 In re JAMES J.; D.F.C.S. v. CAROL M.

H029511 JONES v. WELCHNER

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed September 21, 2007

H029060 LAVAL v. 501(c) INSURANCE PROGRAMS, INC.

The judgment is affirmed. Defendant shall have costs on
appeal. (not published)
(McAdams, J.; Concurring opinion by: Mihara, J.; Dissenting
opinion by: Rushing, P.J.)
Filed September 21, 2007

H029586 PEOPLE v. WHITE

(Filed order modifying opinion.) This modification changes
the judgment. Respondent's petition for rehearing is denied.
(not published)
(Rushing, P.J.; I concur: Elia, J.)
Filed September 21, 2007

H029604 YIELD DYNAMICS, INC. v. TEA SYSTEMS CORPORATION, et al.

(Filed order modifying opinion.) There is no change in
the judgment. Appellant's petition for rehearing is denied.
(published)
(Rushing, P.J.; I concur: Elia, J.)
Filed September 21, 2007

H030471 PEOPLE v. ANNA AYALA

The judgment is reversed and remanded to the trial court for
the limited purpose of resentencing consistently with this
opinion, *Blakely, supra*, 542 U.S. 296, *Cunningham, supra*, 549
U.S. ____ [127 S.Ct. 856], *Black II, supra*, 41 Cal.4th 799, and
Sandoval, supra, 41 Cal.4th 838. (published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams,
J.)
Filed September 21, 2007

Sixth Appellate District

San Jose, California

Friday, September 21, 2007 (continued)

H030284 GRAY v. GRAY

The opinion in the above-entitled matter filed on August 28, 2007, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports, and it is so ordered. Pursuant to California Rules of Court, rule 8.1105(b) & (c), this opinion is certified for publication. (published)
(Duffy, J.; Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed September 21, 2007

H030201 SMITH on Habeas Corpus

The requests for publication of the opinion filed in the above entitled action by Linda Mann Buchalter and Carl D. McQuillion on September 5, 2007, are denied. The opinion does not establish a new rule of law, nor does it meet any of the other criteria set forth in California Rules of Court, rule 8.1105(c).

In compliance with California Rules of Court, rule 8.1120(b), the Clerk shall transmit the request for publication and a copy of this order to the Supreme Court.

(Mihara, Acting P.J.; McAdams, J., and Duffy, J. participated in this decision.)

Filed September 21, 2007